

TITLE 32
DOMESTIC RELATIONS

CHAPTER 3
SOLEMNIZATION OF MARRIAGE

32-301. HOW SOLEMNIZED. All marriages shall be solemnized, authenticated and recorded as provided in this chapter. On and after January 1, 1996, any marriage contracted or entered into in violation of the provisions of this title shall be void.

[(32-301) 1876, p. 24, sec. 8; R.S., sec. 2425; reen. R.C. & C.L., sec. 2620; C.S., sec. 4600; I.C.A., sec. 31-301; am. 1995, ch. 104, sec. 4, p. 335.]

32-302. DUTY OF PERSON OFFICIATING. All persons herein authorized to solemnize marriages must first require the presentation of the marriage license and must ascertain and be assured of:

1. The identity of the parties.
2. Their real and full names and places of residence.
3. That they are of sufficient age to be capable of contracting marriage.
4. If either the male or the female is under the age of eighteen (18), the consent of the father, mother or guardian, if any such, is given, or that such underaged person has been previously but is not at the time married; and that the parties applying for the rites of marriage, and making such contract, have a legal right so to do.

[(32-302) 1876, p. 24, sec. 9; R.S., sec. 2430; am. 1888-1889, p. 44; reen. R.C. & C.L., sec. 2621; C.S., sec. 4601; I.C.A., sec. 31-302; am. 1995, ch. 104, sec. 5, p. 335.]

32-303. BY WHOM SOLEMNIZED. Marriage may be solemnized by any of the following Idaho officials: a current or retired justice of the supreme court, a current or retired court of appeals judge, a current or retired district judge, the current or a former governor, the current lieutenant governor, a current or retired magistrate of the district court, a current mayor or by any of the following: a current federal judge, a current tribal judge of an Idaho Indian tribe or other tribal official approved by an official act of an Idaho Indian tribe or priest or minister of the gospel of any denomination. To be a retired justice of the supreme court, court of appeals judge, district judge or magistrate judge of the district court, for the purpose of solemnizing marriages, a person shall have served in one (1) of those offices and shall be receiving a retirement benefit from either the judges retirement system or the public employee retirement system for service in the Idaho judiciary.

[(32-303) 1863, p. 613, sec. 4; R.S., sec. 2431; reen. R.C. & C.L., sec. 2622; C.S., sec. 4602; I.C.A., sec. 31-303; am. 1969, ch. 116, sec. 1, p. 374; am. 1983, ch. 18, sec. 3, p. 53; am. 1994, ch. 7, sec. 1, p. 11; am. 1997, ch. 196, sec. 1, p. 554; am. 2000, ch. 212, sec. 1, p. 572; am. 2008, ch. 46, sec. 1, p. 119.]

32-304. FORM OF CEREMONY. No particular form for the ceremony of marriage is required, but the parties must declare, in the presence of the person solemnizing the marriage that they take each other as husband and wife.

[(32-304) 1863, p. 614, sec. 6; R.S., sec. 2432; reen. R.C. & C.L., sec. 2623; C.S., sec. 4603; I.C.A., sec. 31-304.]

32-305. EXAMINATION OF WITNESSES. The person solemnizing the marriage may administer oaths and examine the parties and witnesses for the purpose of satisfying himself that the contracting parties are qualified under the requirements of this chapter.

[(32-305) 1876, p. 24, sec. 11; R.S., sec. 2433; reen. R.C. & C.L., sec. 2624; C.S., sec. 4604; I.C.A., sec. 31-305.]

32-306. CERTIFICATE TO PARTIES. When a marriage has been solemnized the person solemnizing the same must give to each of the parties, if required, a certificate thereof.

[(32-306) 1863, p. 614, sec. 7; R.S., sec. 2436; reen. R.C. & C.L., sec. 2625; C.S., sec. 4605; I.C.A., sec. 31-306.]

32-307. FEES OF OFFICER. The person solemnizing a marriage is for such service entitled to receive from the parties married the sum of five dollars (\$5.00), but may receive any other or greater sum voluntarily given by the parties to such marriage.

[(32-307) 1876, p. 24, sec. 16; R.S., sec. 2438; reen. R.C. & C.L., sec. 2626; C.S., sec. 4606; I.C.A., sec. 31-307.]

32-308. VALIDITY NOT AFFECTED BY WANT OF AUTHORITY. No marriage solemnized by any person professing to be a judge, justice, or minister, is deemed or regarded void, nor is the validity thereof to be in any way affected on account of any want of jurisdiction or authority: provided, it be consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

[(32-308) 1863, p. 615, sec. 13; R.S., sec. 2439; reen. R.C. & C.L., sec. 2627; C.S., sec. 4607; I.C.A., sec. 31-308.]

32-309. MARRIAGE CERTIFICATE AS EVIDENCE. The original certificate, and record of marriage made by the judge, justice or minister, as prescribed in this chapter, and the record thereof by the recorder of the county, or a copy of such record duly certified by such recorder, must be received in all courts and places as presumptive evidence of the fact of such marriage.

[(32-309) 1863, p. 615, sec. 14; R.S., sec. 2440; am. 1888-1889, p. 40, sec. 1; am. R.C. & C.L., sec. 2628; C.S., sec. 4608; I.C.A., sec. 31-309.]